

**JOHN S. PANGELINAN**

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Pro se

**FILED**  
Clerk  
District Court

**MAY - 2 2008**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

**IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**

**JOHN S. PANGELINAN**

Plaintiff,

v.

**DAVID A. WISEMAN, ALEX R. MUNSON,  
CRAIG N. MOORE, MARGARITA D.L.G.  
WONENBERG, MELINDA N. BRUNSON,  
JOSEPH AUTHER, DONALD HALL, WOLF  
CALVERT, GRAND JURORS 1 Thru 23,  
JURORS 1 Thru 12, ROY E. ALEXANDER  
ROBERT T. TORRES, LILLIAN A. TENORIO  
and RUFO T. MAFNAS**

Defendants,

**ANGELITO TRINIDAD, RONNIE PALOMO,  
HERMAN TEJADA, ESPERANZA DAVID,  
ANTONIO ALOVERA and UNITED STATES  
OF AMERICA,**

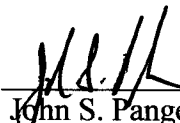
Respondents.

Civil Action No. 08-0004

**EX PARTE MOTION TO  
STRIKE FROM THE RE-  
CORD THE FILING BY  
UNITED STATES OF  
AMERICA OF ITS RE-  
PLY IN SUPPORT OF  
UNITED STATES OF  
AMERICA'S MOTION  
TO DISMISS WITHOUT  
LEAVE TO AMEND; MO-  
TION FOR ENLARGE-  
MENT OF TIME**

**COMES NOW**, John S. Pangelinan, referred hereafter as “Pangelinan”, and moves this court to strike from the record United States of America’s Reply In Support to United States’ Motion to Dismiss Without Leave to Amend; Motion for Enlargement of Time (Reply), filed on April 24, 2008, as the *service* of the Reply was made one day too late and contrary to Local Rule 7.1, c.,3. of this Court: “The movant shall serve and file any reply to the opposition...” “As used in statutes, the word ‘shall’ is generally imperative or mandatory.” Nat’l Assoc. of Homes v. Defenders, 168 L.Ed.2d 467 (2007). The record shows that the Reply was timely filed on the last day its was supposed to be filed and served (Pangelinan filed and served his opposition to their Rule 12(b) motion on April 14, 2008) but it was served on Pangelinan by mail on April 25, 2008— certificate of service from a Jessica F. Cruz for the United States of America was filed on April 25, 2008, showing that service upon Pangelinan was made on the 25<sup>th</sup> of April, 2008. See, Certificate of Service attached to Pangelinan’s declaration. This motion is made *ex parte* as this is strictly a procedural matter in setting the record right. This motion is made just today because it is only today that Pangelinan received in the mail his copy of the Reply. See, Pangelinan’s attached declaration. Furthermore, since United States of America filed its Rule 12(b) motion four days too late, the Reply is likewise filed and served very late. United States of America late filing of its Rule 12(b) motion and, especially, service of its reply is indeed inexcusable. See, Pangelinan’s Objection to its motion filed April 14, 2008. See also, Pangelinan’s *ex parte* motion filed April 25, 2008.

Dated this 2<sup>nd</sup> day of May, 2008.

  
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John S. Pangelinan  
Plaintiff, *pro se*